

**Excerpt from the
CITY PLANNING COMMISSION MINUTES
Minneapolis Community Planning & Economic Development (CPED)**

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MEMORANDUM

DATE: April 4, 2013

TO: Zoning and Planning Committee

FROM: Jason Wittenberg, Manager, Community Planning & Economic Development – Land Use, Design and Preservation

SUBJECT: Planning Commission decisions of March 4, 2013

The following actions were taken by the Planning Commission on March 4, 2013. As you know, the Planning Commission's decisions on items other than rezonings, text amendments, vacations, 40 Acre studies and comprehensive plan amendments are final subject to a ten calendar day appeal period before permits can be issued.

Commissioners present: President Tucker, Cohen, Gagnon, Huynh, Kronzer, Luepke-Pier, Schiff and Wielinski – 8

Committee Clerk: Lisa Baldwin (612) 673-3710

1. 5953 Penn Ave S (BZZ-5885, Ward: 13), 5953 Penn Ave S ([Janelle Widmeier](#)).

A. Rezoning: Application by Lindquist & Venum LLP, on behalf of BBS Family LLC, to rezone the property of 5953 Penn Ave S from R1 Single-family District to R3 Multiple-family District to legalize a 3-unit dwelling.

Action: The City Planning Commission recommended that the City Council adopt the findings and approve the petition to rezone the property of 5953 Penn Ave S from the R1A district to the R3 district.

Approved on consent 6-0; Wielinski not present for the vote.

2. 2601 Colfax Ave N (BZZ-5894, Ward: 3), 2601 Colfax Ave N ([Brad Ellis](#)).

A. Rezoning: Application by W. George Lang for a rezoning from the R2B district to the R3 district in order to lawfully establish a two-family dwelling on the property located at 2601 Colfax Ave N.

Action: The City Planning Commission recommended that the City Council adopt the findings and approve the rezoning petition to change the zoning classification for the property located at 2601 Colfax Ave N from R2B Two-Family District to R3 Multiple-Family District to allow for the conversion of a single-family dwelling to a two-family dwelling.

Aye: Cohen, Gagnon, Huynh, Kronzer and Schiff.

Nay: Luepke-Pier

Absent: Wielinski

Staff Ellis presented the staff report.

President Tucker opened the public hearing.

William Lang (1012 26th Ave N): I'm here for questions.

Commissioner Luepke-Pier: I'm wondering if you could give me a little history about the property, including when it was made into a duplex.

William Lang: I was putting a fence outside of my home, I live adjacent to the property. Through the guy that was helping me, he was talking to the person that was house sitting the property and I learned that it was for sale through an estate. I went to look at the property since I was looking for an investment property. The elderly couple that had lived there had both passed a year before that. It was very attractive to me since it's right next to my house. I looked at it. From the history that I gathered, the previous owners owned it since 1965. They purchased the house; they lived across 26th Ave. They got married, brought up their kids there. When I toured the house it was very nice and there was a mother-in-law apartment upstairs. It wasn't completed; it had a lot of cosmetic work that needed to be done. I lived the majority of my life on the west side of St Paul. When I moved to Minneapolis, I worked with a ministry and I sold my house in St Paul and bought a foreclosed property. The house I lived in was tore up so I fixed it up. I fixed up my house and that's where I'm settled so when that house became available, it didn't need a lot of repair. It needed updated carpet.

Commissioner Luepke-Pier: Do you have any photos with you?

William Lang: They're in the packet.

Commissioner Luepke-Pier: There's one picture in the packet that shows the side of the stove. Explain how you access the upstairs unit. Is it just through the back door?

William Lang: The back stairs.

Commissioner Luepke-Pier: I'm trying to determine when that upper unit was established as a secondary unit.

William Lang: I have the actual abstract title. When I purchased the house, the family that owned it owned 18 acres. When you read the abstract title, it says they sold off these properties in 1935. That's when this house was built. Since I've purchased the house, it looks like the house was moved in 1965 or so that wasn't even on the title. It shows that it was built on that property.

Commissioner Luepke-Pier: I'm just wondering about the second unit because the house is clearly a bungalow. I get a sense of that age, I just can't get a sense of the upstairs unit. I'm wondering when it became a separate unit.

William Lang: I couldn't tell you. From the way it looks dated, it'd say maybe 1980s.

Commissioner Luepke-Pier: When you looked at the property, how did you get up there? Back in 2008, there wasn't a staircase to the back door; there weren't back stairs. So, how did you get up to see the second unit?

William Lang: There was a foundation for an existing staircase going upstairs so we had to go through the door. We got a ladder to get up there and go through the door.

Commissioner Luepke-Pier: Ok, so it hadn't been used as a duplex for a long time and then you bought it and then...

William Lang: It didn't look like there was much use of the property. The elderly couple that owned the property, they up and moved. It seems everything was dated. We built the stairs.

President Tucker closed the public hearing.

Commissioner Luepke-Pier: I'm a little mixed. As a site on 26th Ave, it makes sense for it to have a medium density zoning. I think R3 is appropriate for this house. I live near there. I know there was no staircase there before. I wouldn't mind this being a duplex, but being an R3, it makes me wonder what happens when the basement gets finished. We got a petition about it and I can see their concerns and even the housing committee's reservations about what if it gets converted to a triplex. I guess I'm looking for some insight. I like the zoning for the site, but I'm not sure I like it for the house.

Commissioner Huynh: Brad, can you elaborate why the property wasn't kept at an R2B versus rezoned to R3? Can you highlight the technical aspects to that?

Staff Ellis: In the R2B, a duplex is permitted. If it's a duplex that did not exist on January 1, 1995 it requires a lot area of 10,000 feet. If it's a duplex that existed in 1995 then it requires a lot area of 5000 square feet. This has 5433 square foot lot area but it was not a duplex, per our records, in 1995. Therefore, it needs 10,000 square feet of lot area. Going from that basis, you would need to vary that lot area and you can only vary 30% of that. In part B, it does say you can vary the lot area or lot width requirements up to 55% for newly constructed two family dwellings located in the R2B provided that the surrounding areas are similar in size and have two family dwellings. However, it's not new construction.

Commissioner Luepke-Pier: If we were to find the unit itself had been constructed prior to 1995, which the door had been there before and I wouldn't have expected that the elderly couple had added it, could it be used as a duplex if he paid the rental fee that he's required to pay to turn it into rental property if he had that finding could he exist under R2B and not have to go through rezoning to R3?

Staff Ellis: Basically our permit history indicates no use that it's ever been a lawfully established two family dwelling so we would just say no. I guess they could do some sort of appeal of the decision of the zoning administrator, but the records are fairly clear that it was a single family home moved onto the lot. There were no building permits pulled so we wouldn't recognize that anything was ever lawfully established.

Commissioner Gagnon: I will move staff recommendation (Schiff seconded).

Aye: Cohen, Gagnon, Huynh, Kronzer and Schiff

Nay: Luepke-Pier

Absent: Wielinski